



Revising Wisconsin's Shoreland Management Program

Advisory Committee
Preliminary Proposals
Developed for
Listening Sessions -
November and
December 2003



Why Are We Here?

- Wisconsin lakes and rivers are public resources, owned in common by all Wisconsin citizens under the state's Public Trust Doctrine.
- Based on the state constitution, this doctrine has been further defined by case law and statute. It declares that all navigable waters are "common highways and forever free," and held in trust by the Department of Natural Resources.



Does it all Add Up?

- Scenic beauty and relaxation were the top reasons tourists gave for visiting Wisconsin and spending \$11.4 billion in the state in 2001.
- Tourism supported 380,000 full-time jobs and generated nearly \$1.8 billion in revenues for state and local governments.
- Swimming and fishing are the top main activities visitors mentioned to researchers in a 1997 - 1998 summer study by the Department of Tourism.



Does it all Add Up?

- Each year more than 1.5 million anglers spend 17 million days fishing in Wisconsin. They spend \$1.1 billion directly on fishing related expenses which generates more than \$2.1 billion in economic activity.
- Sportfishing supports 30,000 jobs and generates more than \$75 million in tax revenues for the state for use on critical services like education and health care.



Shoreland Management Review Process

November 2002 - October 2003

- 28 Member Advisory Committee (AC) with representation across the state
- AC has reviewed issues and developed proposals
- Proposals will be presented to public at listening sessions around the state this fall



Advisory Committee Members

LOCAL GOVERNMENT

Wisconsin Co. Code Administrators

Pam Labine - Forest Co.
Karl Kastrovsky - Bayfield Co.
Phillip Gaudet - Washington Co

Elected County Planning & Zoning
Committee Members

Chip Nielsen, Vilas Co.
Nancy Russell - Walworth Co.

Wisconsin Towns Association
Wisconsin Counties Association

Richard Stadelman
Mark O'Connell

PUBLIC RESOURCE INTERESTS


Wisconsin Association of Lakes
River Alliance of Wisconsin
Conservation Congress
Trout Unlimited
ECCOLA

Elmer Goetsch
Rich Bogovich
Paul Mongin
William Pielsticker
Jim Wise

	PRIVATE BUSINESS	
	Wisconsin Builders Association	Jerry Deschane
	Wisconsin Realtors Association	Tom Larson
	Landscape Contractor	Paul Kent
	Restoration Consultant	John Larson - AES
	Agricultural Representative	Paul Zimmerman
	Forestry Representative	Miles Benson
	NRB Appointee	Glenn Schiffmann
	RIPARIANS	
	Earl Cook, Springbrook	
	Chuck Mitchell, Wauwatosa	
	Jay Verhulst - Arbor Vitae	
	Marc A. Schultz - Onalaska	
	Jim Liebert - Hartland	
	ACADEMIC RESOURCES	
	University Rep. (water quality)	Paul McGinley
	University Rep. (wildlife habitat)	Scott Craven
	University Rep. (land use)	Mike Dresen
	WI Chapter - American Planning Assn.	Roland O. Tonn


	NR115 Review Process (cont.)	
	2004	
	<ul style="list-style-type: none"> Summary Report will be prepared based on input from AC and listening sessions Prepare rule package & Natural Resources Board (NRB) request for public hearings Conduct public hearings Finalize rule package based on comments Request final approval from NRB Legislative review begins 	

	Revision Themes	
	<ul style="list-style-type: none"> Because a statewide administrative code cannot tailor make provisions to protect all resources equally, counties will <u>continue to have</u> the local authority to develop more protective standards that are better suited to local resource needs. Each time a new flexibility measure is introduced for property owners, mitigation is triggered, protecting public resources. Think of a balancing scale. Substantial agreement in AC Proposals 	

	Flexibility & Mitigation	
	 <p>The Big 4</p>	
	<p>Current state standards do not provide alternative development options for specific circumstances, such as substandard lots that do not currently meet minimum standards.</p>	
	<p>Concerns: If minimum standards could be more responsive to specific circumstances, and property owners are willing to mitigate the impacts of their waterfront development, a balance could be struck between private property rights and natural resource protection.</p>	


	Mitigation	
	<ul style="list-style-type: none"> Current Standard <ul style="list-style-type: none"> No standards in current rule Proposal <ul style="list-style-type: none"> When mitigation is triggered it shall require, the preservation or restoration of primary buffer and may include additional mitigation measures as required by the permitting authority. Mitigation measures shall be roughly proportional to the magnitude of the impacts of the proposed project on navigable waters and the shoreland area and may incorporate credits for maintaining existing practices. 	

	Statutory Objectives	
	<p>Section 281.31, Wisconsin Statutes provides that shoreland subdivision and zoning regulations shall:</p> <ul style="list-style-type: none"> maintain safe and healthful conditions prevent and control water pollution protect spawning grounds, fish and aquatic life control buildings sites, placement of structures and land use reserve shore cover and natural beauty 	




Primary Buffer

- **Current Standard:** OHWM to 35 feet inland
- No more than 30 feet in any 100 feet shall be clear-cut
- Does not apply to dead, diseased, or dying trees
- Intended to be primary provider of buffer functions
 - Offers habitat onshore and in water
 - Filters effluents, sediments and nutrients in runoff
 - Provides visual screening from the lake



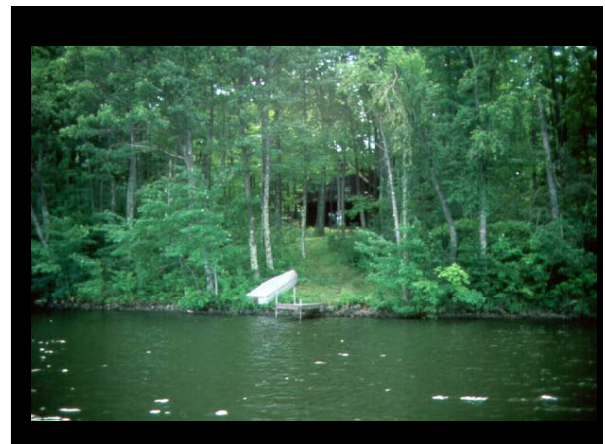
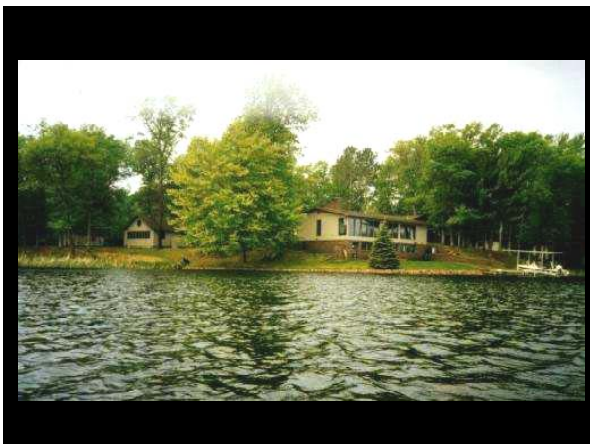
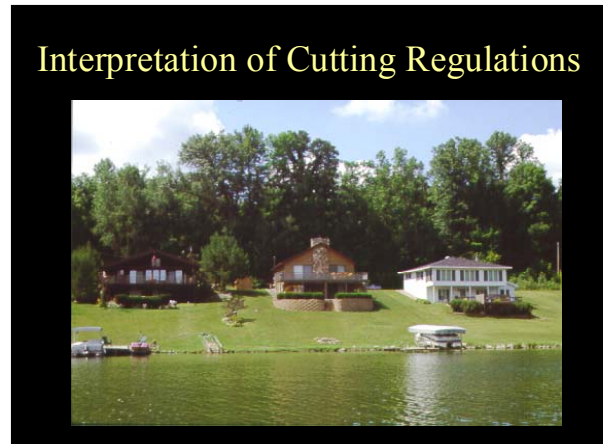
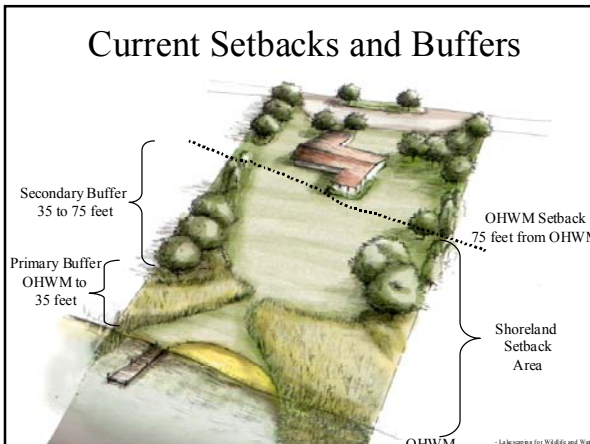
Shoreland Buffers & Setbacks


The Big 4



Concerns:

- Vegetation removal standards are ambiguous and difficult for local governments to enforce.
- They do not recognize unique uses such as forestry and agriculture.
- Most studies recommend a buffer of 50 feet or more to help protect water quality and fish and wildlife habitat.






Primary Buffer

Proposal

Vegetation removal prohibited except for:


- control of exotic or invasive species,
- removal of diseased vegetation,
- removal of trees or shrubs severely damaged by high winds, or
- removal due to an imminent safety hazard

Resource Protection




Secondary Buffer

- Current Standard
 - Shoreland areas more than 35 feet inland
 - Cutting governed by consideration of sound forestry and soil conservation practices
- Proposal
 - Second portion of vegetated buffer; turf, groundcovers or native ground layer vegetation acceptable
 - Removal of trees and shrubs allowed



Viewing Access Corridor

- Current Standard
 - No more than 30 feet in any 100 feet may be clear-cut
- Proposal
 - 1 Viewing and Access Corridor for each property
 - Maintain as vegetated corridor; turf, groundcovers or native ground layer vegetation acceptable
 - Selectively remove trees to create, if not naturally occurring



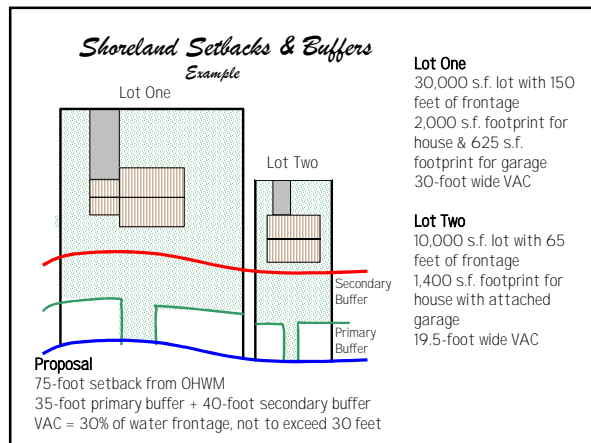
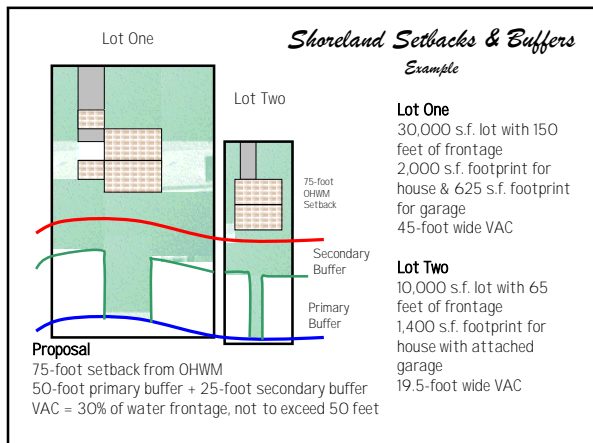
Buffer Options


- 50-foot primary buffer + 25-foot secondary buffer = 75-foot OHWM setback
- 35-foot primary buffer + 40-foot secondary buffer = 75-foot OHWM setback

VAC Options

- 30% of water frontage not to exceed 30 feet wide
- 30% of water frontage not to exceed 50 feet wide

Resource Protection






OHWM Setbacks


- Current Standard
 - 75-foot setback from ordinary high water mark, except for piers, boat hoists and boathouses
- Proposal
 - Maintain 75-foot setback
 - Exempt piers; boat hoists; and accommodations for handicapped& disabled persons
 - Open fences; stairways, walkways, and lifts and small structures that are easily moved by hand (such as picnic tables, lawn chairs, bird baths and canoes) that are moved to a compliant location for the winter may be permitted in the shoreland setback area.

Flexibility




OHWM Setbacks


- Boathouse Options
 - Maintain setback exemption
 - Must meet OHWM setback



Nonconforming Structures

- Current standard
 - Alteration of, addition to, or repair of nonconforming structures may be limited to 50% of the equalized assess value of the nonconforming structure over the life of the structure






Intent of NC Regulations

Attorney General Opinion on Nonconforming Structures: 1997 Wis. Op. Gen 2

“A county may enact a shoreland zoning ordinance with no ‘50% rule’ but should, and has broad authority to, restrict nonconforming uses or structures in some manner to bring them ultimately into compliance with the ordinance.”


- Equity Issue
- to protect water quality
- to control erosion
- to reduce the flow of effluents, sediments and nutrients from the shoreland area





Nonconforming Structures


- Proposal
 - Unlimited ordinary maintenance & repairs allowed
 - Limited expansion of NCS within secondary buffer
 - No expansion of NCS within primary buffer
 - No expansion of NC accessory structures
 - Replacement structures must be built in compliant location
 - Trigger for Mitigation if a permit is issued to work on NCS



Nonconforming Structures


Flexibility

- Minimum Size to Expand Options
 - No standards
 - To expand, structure must have a footprint of at least 750 s.f. or meet the minimum housing size required in general zoning
- Secondary Buffer Expansion Options
 - Habitable living area of structure shall not exceed 1,500 s.f.
 - Footprint of structure shall not exceed 1,500 s.f. and habitable living area shall not exceed 2,500 s.f.




Nonconforming Structures (cont.)

- Options for Structures in more than one Buffer
 - Structure shall be subject to more restrictive provisions
 - Regulations of zone where modification is proposed shall prevail
- Options for the definition of “Major Reconstruction”
 - Reconstruction or replacement of 25% or more of the structural components of a building or 50% or more of the linear perimeter of the structure.
 - The removal and replacement of all, or virtually all, of the structural components of a structure with the exception of the foundation.



Development Density


The Big 4



Current Standard
 Sewered = 10,000 square feet, 65 feet wide
 Unsewered = 20,000 square feet, 100 feet wide

Concerns:

- At 52 homes per mile (110 foot wide lots), green frogs can disappear altogether.
- As shorelands become more developed, studies have found fewer green frogs and native songbirds along our lakes and rivers.
- Existing standards do not address the impacts of impervious (hard) surfaces, such as roofs, driveways, and roads.
- Research has found that when a watershed exceeds 15% impervious surface, water quality is degraded and fish communities are severely impacted.



Lot sizes

Chapter NR115 requires minimum lots sizes in the shoreland area be established:

- to afford protection against danger to health, safety and welfare, and
- protection against pollution of the adjacent body of water
- To provide space for other dimensional requirements including:
 - private sewage disposal facilities and wells or navigable water
 - setbacks for structures from the roads or navigable water, side yards and parking areas, and the shore-cover protection strip along the water



Lot Size

- Lot Size Options
 - Maintain current standards
 - 20,000 square feet, 100 feet wide
- Minimum Buildable Area Options
 - No standard
 - At time of platting, lots shall have at least 5,000 square feet of land that is not wetland or floodway

